

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA
Plaintiff,

vs.

CASE NO: 00-6293-CR-~~FERGUSON~~

TROY BROWN

Defendant.

MOTION TO DISMISS INDICTMENT

COMES NOW the Defendant Troy Brown by and through his undersigned and Moves this Honorable Court for the issuance of an order dismissing the Indictment in the above entitled cause on two (2) grounds.

(1) improper and prejudicial evidence was presented to the Grand Jury in order to obtain the Indictment in this case.

(2) The Indictment itself contains prejudicial material which will make it impossible for the Defendant to obtain a fair trial.

Facts

The Defendant Troy Brown along with others was indicted by a Federal Grand Jury for a number of sales of crack cocaine.

As it is obvious in the Indictment, improper evidence was presented to the Grand Jury, namely the Defendant's prior record, in order to obtain an Indictment in this case.

Since prejudicial evidence was presented to the Grand Jury, specifically the Defendant's prior record, this particular Indictment is tainted and should be dismissed.

The prior record of the Defendant, unless relevant for some



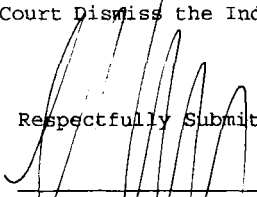
reason, such as a possession of a firearm by a convicted felon charge should never be presented to the Grand Jury since presentation of such prejudicial evidence taints the deliberations by the Grand Jury.

For that reason alone this Indictment should be dismissed and re-presented without the offending evidence to an untainted Grand Jury.

The Indictment itself alleging that the Defendant has sold drugs after having been previously convicted of doing the same thing is one under which the Defendant can never obtain a fair trial.

It is improper for a petty jury to consider a Defendant's priors as an element in the charge. Priors become a sentencing issue once a conviction is obtained fairly without offending evidence. For this reason undersigned counsel moves that this Honorable Court Dismiss the Indictment in this case.

Respectfully Submitted,



LOUIS CASUSO, ESQ.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was hand delivered/mailed to the U.S. Attorney's Office, this 31 day of August, 2001.

BY:  _____